

MEMORANDUM OF LAW

DATE: June 27, 1989

TO: Councilmember Ed Struiksma

FROM: City Attorney

SUBJECT: San Diego Unified Port District Harbor Police

You have asked this office if there are any legal impediments to The City of San Diego taking over all of the responsibility for local law enforcement in those areas of the City of San Diego that fall within the jurisdiction of the San Diego Unified Port District (Port District).

Currently, the San Diego Unified Port District Harbor Police (Port District Harbor Police) shares its responsibility for local law enforcement with the San Diego Police Department pursuant to Section 0.07 of the Unified Port District Code. Traditionally, the Port District Harbor Police has relied on the San Diego Police Department to investigate the more serious crimes leaving the Port District Harbor Police free to enforce the Unified Port District Code within its jurisdiction and to provide other law enforcement duties unique to the Port District.

It is clear that the San Diego Unified Port District Board of Commissioners has the authority to maintain its own law enforcement agency or to contract with an adjacent city to provide for such services within the city's jurisdiction. Section 55(c) of the San Diego Unified Port District Act, Appendix 1, California Harbor and Navigation Code states as follows:

Section 55. Rules and regulations of board;
regulation of vessels; harbor police and fire
protection.

The board shall:

. . . .

(c) Establish and maintain a system of harbor police and may establish harbor fire protection within the territorial limits of the district for the enforcement of the ordinances, rules and regulations of the district, and employ the necessary officers, who shall as to such matters have all the power of peace officers and firemen within the district; or in the alternative, the district may contract with the municipalities whose

territorial limits are adjacent to or contiguous to those of the district to provide such services. (Stats. 1962, 1st Ex. Sess., c. 67, p. 373, section 55.)

Although the Board has the legal authority to enter into a contract for harbor police protection within City of San Diego territorial limits with The City of San Diego, there are additional issues that will arise from the execution of such a contract.

Initially, we note that the Port District Harbor Police are peace officers pursuant to California Penal Code section 830.1(a) and meet the minimum standards of training for peace officers set forth in Penal Code section 13510. We also note that pursuant to Section 71 of the San Diego Unified Port District Act, which permits the Port to contract with The City of San Diego for retirement disability benefits, Port District Harbor Police are general and not safety members of the City Employees' Retirement System.

In the event that the Port District decides to contract with The City of San Diego for all local law enforcement responsibility, we foresee several issues concerning labor relations and personnel which will need to be resolved. A decision will need to be made whether or not to transfer current Port District employees into The City of San Diego Police Department. Such a transfer must, of course, be done in accordance with the Civil Service Rules of The City of San Diego. Assuming that such a transfer can be accommodated, the impact of the transfer on the wages, hours and working conditions of both current San Diego Police officers and the transferred Port District Harbor Police officers will have to be addressed by both the City and the Port District. Training will be required by the

transferred officers in order to assist them in carrying out the full range of duties performed by San Diego Police Department officers. The San Diego Police Department officers will need to be trained in those areas unique to law enforcement activities within the Port District. Traditional labor relations issues surrounding a merger of employees such as seniority, promotional opportunities, transfers and retirement benefits will also need to be addressed.

On the other hand, if it is determined that a transfer through a noncompetitive examination process cannot be accommodated under Civil Service Rule III, San Diego Municipal Code section 23.0401 et seq., the current Port District Harbor Police will most likely object strongly to the loss of their

jobs. Unfortunately, this issue cannot be resolved until the Personnel Department conducts a study of the various job classifications and duties at issue and all requirements to meet and confer under the Meyers-Milias-Brown Act (California Government Code section 3500 et seq.) are satisfied.

In summary, we state that while the San Diego Unified Port District Act authorizes the Port District to contract with The City of San Diego for local police protection for Port District lands within the jurisdiction of The City of San Diego, there are numerous unresolved personnel and labor relations issues which need to be studied and addressed before such a contract can be executed.

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By

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